



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 2, 2005

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Conyers:

This responds to your recent letter regarding the Department of Justice's investigation into (i) the allocation of voting machines in Franklin County, Ohio, for the November 2, 2004, general election, and (ii) other complaints relating to the conduct of that election in the State of Ohio.

The Department is sifting through the various reports and allegations concerning the recent election, just as we do after each election. In situations where there is specific and credible evidence that a violation of federal law has occurred, we launch investigations. Many of the allegations noted in your letter raise questions of possible criminal violations, and those are investigated under the supervision of the Criminal Division's Public Integrity Section. Allegations of civil violations are investigated by the Voting Section of the Civil Rights Division.

With respect to the issue of voting machine allocations, your letter objects to our conclusions on the theory that data shows that in Franklin County, Ohio, there were relatively fewer voting machines per registered voter in predominantly black precincts than in predominantly white precincts. In fact, that was the predicate for our investigation -- the specific and credible allegation of a possible violation of Section 2 of the Voting Rights Act. The allegation was, however, a starting point rather than the end point in our investigation of a possible statutory violation.

As set forth in our letter of June 28, 2005, to Franklin County, further investigation established that (1) the voter registration rolls were inaccurate and thus a poor guide for allocating voting machines; (2) machines were allocated by the bipartisan election board prior to the election based on historical past turnout and registration; (3) the number of voting machines in the county had been adequate for the 1996 and 2000 elections; and (4) based on actual turnout during the election, there actually were more voters per machine on election day in white

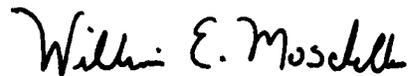
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precincts than in black precincts. Black voters who went to the polls were not particularly disadvantaged by the allocation of machines, and the totality of evidence did not establish a violation of the Voting Rights Act.

We acknowledge, as both your letter and our June 28 letter point out, that Franklin County had fewer than 3,000 voting machines for the 2004 general election, compared to the 5,000 machines that were needed. Indeed, it is undeniable that many white and black citizens across the county experienced long delays in voting. Nor do we condone or justify the lack of voting machines, nor the resulting long delays for voters. However, as you are aware, Ohio experienced a substantial and significant increase in turnout from the 2000 election, as did the rest of the country, with the highest national turnout in a presidential election in the United States since 1968. The county has already agreed to purchase more voting machines to avoid such problems in future elections. Moreover, so long as the burden of long lines at the polls involved no legally significant disparities linked to the race of the voters; and, again, the facts available do not establish any such disparity, such delays fall outside the statutory jurisdiction of this Department and do not violate the Voting Rights Act. This is the case with a range of election-day problems. The Department lacks plenary authority over elections in the United States, and properly so.

Please do not hesitate to contact the Department if we can be of assistance in other matters.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable F. James Sensenbrenner
Chairman